



**MISSOURI HIGHWAYS AND TRANSPORTATION
COMMISSION**

Official Minutes

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**MINUTES OF THE REGULARLY SCHEDULED
HIGHWAYS AND TRANSPORTATION COMMISSION MEETING
HELD IN JEFFERSON CITY, MISSOURI,
WEDNESDAY, FEBRUARY 14, 2024**

A regularly scheduled meeting of the Missouri Highways and Transportation Commission was held on Wednesday, February 14, 2024, at the Missouri Department of Transportation, 105 W. Capitol Avenue, Jefferson City, Missouri and was available via live stream. Terry L. Ecker, Chair, called the meeting to order at 9:00 a.m. The following Commissioners were present: W. Dustin Boatwright, P.E., Gregg C. Smith, Warren K. Erdman, Francis G. Slay, and Daniel J. Hegeman.

The meeting was called pursuant to Section 226.120 of the Revised Statutes of Missouri, as amended. The Secretary verified that notice of the meeting was posted in keeping with Section 610.020 of the Revised Statutes of Missouri, as amended.

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Patrick McKenna, Director of the Missouri Department of Transportation; Rich Tiemeyer, Chief Counsel for the Commission; and Pamela J. Harlan, Secretary to the Commission, were present on Wednesday, February 14, 2024.

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*“Department” or “MoDOT” herein refers to Missouri Department of Transportation.
“Commission” or “MHTC” herein refers to Missouri Highways and Transportation Commission.*

-- OPEN MEETING --

COMMISSION/DIRECTOR ITEMS

APPROVAL OF MINUTES

Upon motion by Commissioner Boatwright, seconded by Commissioner Smith, a quorum of Commission members present approved the minutes of the regular meeting held on January 3, 2024. The Chairman and Secretary to the Commission were authorized and directed to sign and certify said minutes and to file same in the office of the Secretary.

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CONSENT AGENDA

Consent Agenda Process

In order to make the most efficient use of Commission meeting time and to ensure Commission members are well informed on issues requiring their action, staff prepares and submits to the Commission members, in advance of their meeting, internal memoranda consisting of advice, opinions, and recommendations related to the items of the Commission meeting agenda. Those items considered by staff to be of a routine or non-controversial nature are placed on a consent agenda. During the meeting, items can be removed from the consent agenda at the request of any one Commission member. The items that are not removed from the consent agenda are approved with a single motion and unanimous vote by a quorum of the members.

Minutes reflecting approval of items on the consent agenda are singly reported herein and intermingled with minutes reflecting action on related subjects that were openly discussed. Reference to “consent agenda” is made in each minute approved via the process described in the

paragraph above. Minutes reflecting action on items removed from the consent agenda and openly discussed reflect the open discussion and vote thereon.

Consideration of February 14, 2024, Consent Agenda

No items were removed from the consent agenda. Upon motion by Commissioner Smith, seconded by Commissioner Boatwright, the remaining consent agenda items were approved by a quorum of Commission members present.

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COMMISSION COMMITTEES AND COMMISSION RELATED BOARDS

The Commission has two standing committees: Audit and Legislative. In addition, it elects Commission representatives to two boards: Missouri Transportation Finance Corporation Board of Directors and MoDOT and Patrol Employees' Retirement System Board of Trustees. A Commissioner also serves on the Missouri Coalition for Roadway Safety Executive Committee. The following committee and board reports were made during the February 14, 2024, meeting.

Audit Committee – Commissioner Boatwright stated there was no report. The next audit committee meeting is scheduled for April 2024.

Legislative Committee – Commissioner Boatwright reported while the Senate has been viewed by some as getting off to a slow start in finding its footing for this session, the House has been extremely active in conducting public hearings and beginning full House floor debates.

He shared in the Governor's January 2024 *State of the State Address*, the Governor outlined his budget proposal for fiscal year 2025, and highlighted his accomplishments as a leader for transportation and infrastructure and what a good transportation system can mean in terms of increasing economic development and growth for the state of Missouri.

Some of the items the Governor mentioned in his address included:

- Fixing and replacing 250 of Missouri's worst bridges;
- Leveraging general revenue and bonding authority to fund the Focus on Bridge program which led the way for projects like the Buck O'Neil bridge in Kansas City, I-270 North in St. Louis, and the new Rocheport River bridge in rural mid-Missouri;
- Implementing a rural route pavement program;

- Providing funding for the I-70 Improvement Program; and
- The pathway for increasing salaries for state employees who want to make public service a career.

It has been exciting to have the Commission work alongside with a governor who has made transportation one of his top priorities while in office.

The House has been extremely busy conducting public hearings in various committees. Recently, there have been an onslaught of legislative proposals either filed or heard in the House Transportation Accountability Committee that cause great concern for the members of the Commission in terms of its current structure and ability to fund badly needed transportation projects across the state. These legislative proposals range from increasing the size of the commission; changing the process on how commission members are currently selected to serve on the MHTC and simply doing away with the commission form governance and making the director of MoDOT a position that reports directly to the Governor. The proposed changes could result in an upheaval of the project selection process by shifting funds for one area of the state to another without public input and allowing partisan politics to enter a non-partisan commission structure. The Commission takes these proposals very seriously and have filed public opposition to these proposals and will continue to closely monitor these and other proposals that could impact the delivery of road and bridge projects across the state.

Missouri Transportation Finance Corporation (MTFC) – Commissioner Smith stated there was no report. The next MTFC meeting will be later in February 2024.

MoDOT and Patrol Employees’ Retirement System (MPERS) – Commissioner Boatwright stated there was no report. The next board meeting is scheduled for February 16, 2024.

Missouri Coalition for Roadway Safety Executive Committee – Commissioner Boatwright shared traffic fatalities in Missouri decreased in 2023 for the first time since 2019. Preliminary data indicates 992 people were killed in Missouri crashes last year, a 6 percent reduction from 2022.

The state experienced notable improvements in fatalities related to commercial motor vehicles, and impaired driving fatalities were also down. However, motorcycle fatalities reached an all-time high of 175. This is a 14 percent increase from 2022 and a 48 percent increase from 2020, the year Missouri’s all-rider helmet law was repealed. On average, Missouri is experiencing 50-55 more motorcyclist fatalities each year since the repeal.

So far in 2024, we have had 57 traffic fatalities which is down from 66 this same time last year. The coalition's executive committee is set to meet this afternoon, where they will further discuss the 2023 trends as well as upcoming opportunities and initiatives to keep Missouri moving forward in eliminating traffic fatalities.

Today is a good day to remind everyone to do their part to keep our roads safe. If not for yourself, for the people you love. Buckle up. Phone down. Slow down. Drive sober.

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DIRECTOR'S REPORT

During the February 14, 2024, Commission meeting, Director Patrick McKenna provided the following report:

Governor's State of the State – Director McKenna reported that in his final State of the State address, Governor Parson highlighted several of his transportation initiatives carried out by MoDOT, including the Focus on Bridges program, which just opened its final bridge in December and the completion of the I-270 North project also completed in December. MoDOT had \$200 million in work for the Rural Routes Program and distributed approximately \$125 million in the Governor's Transportation Cost-Share Program. He also highlighted the Buck O'Neil bridge in Kansas City and I-70 Rocheport bridge in mid Missouri, both of which will be completed by the end of 2024.

The Governor thanked the MoDOT team for responding to floods, ice and snow, highway crash scenes, and all of the day-to-day work on the nation's seventh largest state highway system. He recognized eight MoDOT employees who were in attendance as representatives of these various teams within MoDOT. The Director shared a picture of the group with Mrs. Parson and Governor Parson.

Improve I-70 INFRA Grant – Director McKenna shared that recently, U.S. Congressman Sam Graves and Governor Parson announced Missouri secured a \$92.8 million Infrastructure for Rebuilding America (INFRA) grant for the Improve I-70 project. MoDOT will use the INFRA grant for specific Improve I-70 projects, including truck parking, Intelligent Transportation System (ITS), work zone safety technology, and workforce development, all to enhance the efforts of adding an additional lane to I-70.

The overall goal of the Improve I-70 project across Missouri is to provide a safe, efficient, environmentally sound, and cost-effective transportation facility that responds to corridor needs as

a national interstate. Missouri's Fiscal Year 2024 budget from the General Assembly supported by Governor Parson provides \$2.8 billion in General Revenue for the costs to plan, design, construct, reconstruct, rehabilitate, and repair three lanes in each direction on nearly 200 miles of I-70, from Blue Springs to Wentzville.

This grant award acknowledges the national importance of the Improve I-70 corridor. The department submitted an aggressive application for the Improve I-70 program through a federal project discretionary grant opportunity to add to the historic funding provided by the General Assembly and Governor Parson. With the award of this grant, it will allow the Improve I-70 corridor to enhance safety, increase technology, and improve innovation throughout the first three projects.

The first phase of the project includes the segment of interstate from Route 63 in Columbia to Route 54 in Kingdom City. Construction on this first segment could start as early as summer 2024. The second project will focus on the segment from Warrenton to Wentzville and the third from Blue Springs to Odessa. Projects two and three are scheduled to be under construction in 2025.

The INFRA grant will enable MoDOT to further stretch the funding for I-70 to include additions such as additional truck parking along I-70, and additional cameras and digital message boards used to help communicate to I-70 travelers. MoDOT will also be looking at items to enhance technology and communication efforts through smart work zone features to advise motorists during construction.

Forward 44 Study Begins – Director McKenna reported while construction is about to begin on I-70, MoDOT's team is starting the next steps to get the Interstate 44 corridor ready.

Missouri's Fiscal Year 2024 budget from the General Assembly signed into law by Governor Parson provided \$20 million of General Revenue for an environmental study of more than 250 miles of the I-44 corridor from the Oklahoma state line to Gray Summit in Franklin County. This study is a critical step to preparing for future projects on I-44.

Two consultants have been selected to conduct the environmental study, which has divided the corridor into two pieces. Hg Consult Inc. will study the stretch from the Oklahoma state line to St. Robert, and Garver will study from St. Robert to the Route 100 East interchange at Gray Summit in Franklin County.

The initial review will take approximately one year. The goals for the I-44 corridor environmental study are to validate the outcomes of the 2008 I-44 Purpose and Need Study with the opportunity for the public to provide input and to divide the more than 250 miles of the I-44 corridor into logical independent segments. Those project segments can then be prioritized for further in-depth study to determine a preferred alternative and prepare for detailed design and construction when funds are available.

AASHTO Washington Briefing – Director McKenna attended the American Association of State Highway and Transportation Officials’ Washington Briefing. The meeting provides an opportunity to discuss transportation programs and legislation and hear updates from key members of Congress. Missouri U.S. Congressman Sam Graves spoke to the group about work on several bills including pipeline safety, FAA reauthorization, and oversight on the Infrastructure Investment and Jobs Act (IIJA) funds. He is already working on the next highway reauthorization bill, and he is seeking a waiver as chairman of the transportation committee to be able to chair it for the next two years. The Director shared a short clip of Congressman Graves thanking MoDOT.

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MODOT PRESENTATIONS

EMPLOYEE ADVISORY COUNCIL UPDATE

On behalf of the Director, Andria Hendricks, Equal Opportunity and Diversity Director, and Allison Talley, Employee Advisory Council Chair, reviewed the purpose of the Employee Advisory Council (EAC). The department recognizes one of the most integral components of its workforce is to respect and appreciate the values, ideas, cultures, and backgrounds of others. The Employee Advisory Council was established in 2005 to foster and enhance a positive and supportive work environment for employees by assisting management with cultural diversity, policy review, and communication issues.

The EAC is comprised of three representatives from each district and central office, and four employees selected by the Director, for a total of 28 members. The makeup of these members

includes a variety from the districts and divisions. The EAC meets monthly and has four leadership positions: Chair, Vice Chair, Secretary, and Assistant Secretary.

The purpose of the EAC is to provide a resource to MoDOT, receive and review employee inquiries while maintaining their anonymity, discuss department policies and procedures, review upcoming department initiatives, and assist with informing employees. A couple of items the EAC worked on recently include embracing the mental health awareness initiative and advocating for additional Personal Protective Equipment (PPE) for employees. EAC members share valuable information with employees regarding safety, best practices, culture and diversity, and health and wellness.

The entire statewide EAC is a great team, and they are not just showing up for work, they are volunteering, and they are growing and developing in the organization. During the time frame they have been on the EAC, there have been leadership coin recipients, maintenance leadership academy graduates, performance and leadership development award recipients, innovations challenge winners, new degree and PE holders. The team has done an extraordinary job in their roles with the EAC and professionally with the department.

The EAC also participates on the various outreach and public involvement programs around the state. They have participated in the Day of Remembrance event and various Buckle Up Phone Down events with the Missouri Coalition for Roadway Safety.

Ms. Talley reviewed EAC statewide accomplishments in the last year as they relate to the department's three pillars of safety, service, and stability. Under the pillar of safety, the EAC assisted with new PPE offerings, and educating employees on new safety guidelines. Under the pillar of service, the EAC hosted 28 special guests, fielded 68 inquiries, and reviewed three policies. Under the pillar of stability, the EAC continued efforts to develop the department's

mental health awareness initiative and focused on preserving the department's diversity, equity, and inclusion education. In the last quarter the EAC reviewed over thirty EAC inquiries.

Ms. Talley expressed her appreciation to the Commission and department leadership for supporting and valuing the statewide and local EACs. Commissioner Smith thanked Ms. Hendricks and Ms. Talley for educating the Commission on the EAC, he noted the most important part of MoDOT is its people and the things the EAC is doing to keep up employee morale is important.

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ENTERPRISE RISK MANAGEMENT (ERM)

On behalf of the Director, Kelly Niekamp, Audit Manager, presented the annual Enterprise Risk Management (ERM) report. Ms. Niekamp explained ERM is an organization strategy for identifying, assessing, and managing overall risk to an organization. ERM provides a broad framework for managing risks, identifying an organization's most significant risks, and managing those risks within an acceptable level to ensure the organization's objectives are met. For ERM to be successful, an organization needs to know their risks and develop a clear strategy and define goals.

MoDOT began to conduct the ERM process in 2011 as a good governance activity. This process has helped the department strategically review the risks that could impact its ability to deliver the department's mission and assess strategies to mitigate those risks. ERM involves the Commission, department leadership, and employees in assessing the risks. Commission policy requires the department have an ERM process and provide an annual report to the Commission regarding that process. The initial ERM assessment took place in 2012; this is the ninth time the department has been through the process. Ms. Niekamp provided the Commission with a detailed

report and reviewed in her presentation with the Commission what changed since the last ERM review.

There are ten risk areas that have been identified: financial, workforce, public opinion/support, political risk, transportation system failures, natural disasters, safety and security, legal and regulatory changes, information technology, and fraud and theft. Each risk category was considered equally and separately from other risks and not ranked in order. Each risk category was scored from one to five in preparedness, likelihood, and impact. Preparedness was ranked from unprepared to plans in place and tested. Likelihood was ranked from little chance of occurring to fairly certain it will occur. Impact was ranked from very little impact to devastating impact.

The information was then placed on a heat map. The heat map identifies areas that may require additional monitoring or controls for improvement by evaluating risks in terms of risk exposure which considers impact and likelihood, compared to preparedness. The heat map visually displays where Senior Management Team (SMT) members assess organizational risks.

The heat map shows that workforce is the risk category that SMT members assessed with the highest risk exposure along with the risk of being the least prepared to handle. MoDOT continues to have high turnover, 14.10 percent for fiscal year 2023. There is a cost associated with this turnover and for calendar year 2023 it is estimated to be over \$48 million. MoDOT continues to present pay strategies to address market concerns, improve retention and recruitment, and improve employee engagement.

Ms. Niekamp concluded her presentation and noted the existence of an enterprise risk management process within an organization is recognized as an example of good governance and is important to strategic management of organizational risk. This process continues each year as

SMT and employees identify, assess, and monitor organizational risks. Commissioner Erdman noted this is a very thorough and important exercise. He noted what you don't know can really hurt you, but it is very important to identify and quantify the risk. He inquired about the Information Technology risk category. Ms. Niekamp noted that the Information System Division has the accountability and ownership of those risks and are monitoring and seeking ways to mitigate those risks.

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MAINTENANCE OPERATIONS PLAN DEVELOPMENT AND RESULTS

On behalf of the Director, Michael Middleton, Management System Project Director, provided an overview of the department's efforts to maintain and operate the state road and bridge system and how the department uses the MoDOT Management System to develop and measure results of the Maintenance Operations Plan. Annually, MoDOT invests over \$525 million dollars in maintaining and operating the state road and bridge system. Major components of maintenance efforts are pavements, bridges, emergency operations, roadsides, traffic operations, and winter operations.

The MoDOT Management System (MMS), formerly referred to as the Maintenance Management System, allows maintenance employees to electronically plan and document their labor, equipment usage, material usage, and location of work within minutes. MoDOT employs 2,400 maintenance employees across the state to maintain its 33,891 miles of state routes. These employees are located in 192 maintenance facilities, and document 81 different types of maintenance activities while using 3,600 pieces of equipment.

The maintenance plan includes three years of work that is developed in the fall each year. It includes bridge deck sealing, pipe replacements, chip seals, and pavement repairs. This work is

programmed at eighty percent for the first year of the plan, sixty percent for the second year, and only forty percent of the third year is programmed. MMS accommodates increased federalization of preventative maintenance activities. Planned preventive maintenance work plans or preservation work performed by MoDOT forces are submitted annually for federal participation. In calendar year 2023, MoDOT will accomplish about \$80 to \$85 million annually in federal participation for preventive maintenance.

Much of the maintenance work is planned, executed, and tracked. These planned activities include asphalt pavement repair, striping, signing, chip seals, crack sealing, pipe culvert repair or replacement, lighting, bridge deck seal, bridge deck repair, bridge flushing, and concrete pavement repair. About \$159 million is expended on planned preventative maintenance.

Other routine maintenance activities are reactive and unpredictable, such as pothole patching, sign repair, litter, homeless encampments, signal maintenance, deer removal, managing traffic after a tragic accident, and winter operations. A great deal of the urban operations is focused on emergency response compared to roadway work. MoDOT expends about \$370 million on these routine maintenance items. While everyday occurrences, these routine maintenance activities are unpredictable work above and beyond the planned preventive maintenance operations.

Mr. Middleton reviewed the results of this maintenance work. The department used 434,000 tons of asphalt on pavement repair work in calendar year 2023, expending \$61.6 million. Also in 2023, pipe culvert repair work cost \$11.8 million for 107,600 linear feet. For calendar year 2023, bridge preventative maintenance work took place on 6.8 million square feet of deck, and chip sealing on 1,859 lane miles. In fiscal year 2023 there were 35,954 call reports to address problems reported by the traveling public that need to be addressed but interrupt the planned maintenance activities. He highlighted that winter operations used 69,423 tons of salt, and 292,345

labor hours. It cost the department \$32 million to address winter operations from November 2023 through January 2024.

MoDOT strives for outstanding customer service for the travelling public on Missouri highways. Staffing shortages continue to compromise the department's ability to provide the level of service the department strives to provide for activities including winter operations, signs, litter, homeless encampments, striping, mowing and noxious weeds, signal maintenance, bridge maintenance, and deer removal.

Commissioner Hegeman thanked Mr. Middleton for his presentation and inquired about the information regarding signing. Commissioner Erdman commended the department for having a work plan to maintain Missouri's roads and bridges.

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CONSIDERATION OF PROPOSALS FOR THE IMPROVE I-70 COLUMBIA TO KINGDOM CITY DESIGN-BUILD PROJECT IN BOONE AND CALLAWAY COUNTIES, MISSOURI

On behalf of the Director, Ed Hassinger, Deputy Director/Chief Engineer and Jeff Gander, Project Director, described the project that will improve Interstate 70 from US-63 to US-54. The project will construct an additional lane eastbound and westbound on I-70, replace and rehabilitate bridges, and construct interchanges at US-63 and US-54.

Project Goals

MoDOT established the following goals for the project which were used in evaluating and determining the Best Value Proposal:

1. Deliver the project by December 31, 2027, within the program budget of \$420 million.
2. Provide a third lane of travel for eastbound and westbound I-70 from Columbia to Kingdom City.
3. Improve the I-70/US 63 and I-70/US 54 interchanges providing for better traffic flow and movement of freight.

4. Improve the interstate while modernizing the existing pavement and bridges.
5. Minimize construction impacts with a focus on work zone safety, communication, and construction staging while maintaining mobility.
6. Provide expanded employment opportunities while developing and using a diverse workforce.

MoDOT's External Civil Rights Division established a 10 percent disadvantaged business enterprise goal for construction work and an 18 percent disadvantaged business enterprise goal for professional services for the project. The best value proposer will be required to meet federal workforce goals per trade of 6.3 percent minority and 6.9 percent female.

Procurement Process

By Commission action on July 12, 2023, the Commission approved the use of design-build for the Improve I-70 Columbia to Kingdom City Design-Build Project. Since then, MoDOT's design-build team has been working through the procurement process. Two teams were prequalified on October 4, 2023, to compete for the contract. The Request for Proposals was issued October 6, 2023. The MoDOT Design-Build team held eleven confidential discussions with each team over a period of fourteen weeks to discuss their proposal ideas. Final proposals were submitted by the teams on January 25, 2024. The MoDOT design-build team reviewed and evaluated the proposals. The two teams that submitted proposals include:

- The I-70 Constructors Team – major participants Emery Sapp & Sons, Capital Paving and Construction, and Parsons.
- The Millstone Weber Team – major participants include Jacobs and Lunda Construction.

Evaluation

The items that were evaluated by the MoDOT design-build team included: Project Definition (70 points available), Maintenance of Traffic (25 points available), and Workforce Development (5 points available) for a total of 100 points. Project Director Gander provided a

summary of the proposals submitted by each team and the total points awarded to each team as outlined below.

- The I-70 Constructors Team – 53 points
- The Millstone Weber Team – 75 points

Commission Consideration and Action

Project Director Gander recommended the Millstone Weber Team as the best value proposer. Their proposal included:

- Adding a third lane in each direction that includes new concrete pavement on all three lanes of I-70 for the 20-mile section from Columbia to Kingdom City
- Wider inside and outside shoulders compared to the current interstate design
- Full depth concrete inside shoulders
- At the U.S. 63 interchange, the proposal includes:
 - 2 new direct connections from U.S. 63 and I-70
 - 4 new roundabouts
- A new improved interchange at U.S. 54 interchange, including two new bridges
- Having 2 lanes open to traffic in each direction during construction

Chairman Ecker thanked Project Director Gander for his presentation and the MoDOT design-build team for their work on this project to date.

After consideration, Commissioner Boatwright moved that the Commission adopt staff recommendations to award the Millstone Weber design-build team for submitting the best value proposal for the Improve I-70 Columbia to Kingdom City Design-Build Project; authorize the director, deputy director/chief engineer, or their designee to negotiate and execute a contract with the Millstone Weber design build team subject to approval as to form by the Chief Counsel's Office; and authorize payment of the agreed stipend to the one unsuccessful proposing team. This motion was seconded by Commissioner Smith. The Commission unanimously approved the motion. Commissioner Slay noted today marks an exciting start to this generational opportunity to improve I-70. Congratulations to the MoDOT team involved in getting to this point. Thank you

to both teams who worked so hard and so quickly to turn in competitive proposals. Let's get to work!

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ADMINISTRATIVE RULES/POLICIES

COMMISSION POLICY REVISION – COMMISSION – MEMBERS – REPORTING POTENTIAL CONFLICTS OF INTEREST

Following a comprehensive review of all Commission policies, on November 7, 2013, the Commission formally compiled and adopted the Commission policies that the department currently operates under today. In addition to the Commission's periodic review, there are occasions where a policy may need to be updated. This policy is being revised to (1) clearly alert the Governor's Office and potential Commission members to the prohibited financial interests imposed by statute upon Commission members and other applicable conflicts of interest statutes, and (2) clearly alert potential Commission members of the potential negative financial impact that serving on the Commission can have on Commission members' business interests. Section 226.909 RSMo prohibits individuals from serving on the Commission for listed reasons. To avoid the appearance or an actual conflict of interest, Commissioners have traditionally agreed to stop transacting business with the Commission and the Department during the member's term of service on the Commission. The modifications are noted in green text for new language, and red strike through text for deleted language.

Pamela Harlan, Secretary to the Commission, recommended the Commission – Members – Reporting Potential Conflicts of Interest policy be revised as indicated with the green text for new language and red strike through text for deleted language:

Category: COMMISSION
 Subcategory: Members
 Sub-Subcategory: Reporting Potential Conflicts of Interest

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~~EXHIBIT 1 – Summary of applicable ethics statutes.~~

REPORTING POTENTIAL CONFLICTS OF INTEREST

- (1) **Policy Purpose:** The purpose of this voluntary policy is to assist Commission members to:
 - (A) Recognize an actual or appearance of a conflict of interest;
 - (B) Comply with applicable conflict of interest laws and rules; and
 - (C) Avoid controversy or embarrassment for the affected individual member, the Commission, and MoDOT.
- (2) **Responsibility of Commission Members:** A conflict of interest may take many forms. The correct analysis of a potential conflict depends upon the facts disclosed as well as the applicable law, if any. Each Commission member should be alert to any potential conflict of interest. The responsibility for avoiding a potential conflict of interest and complying with applicable statutes and rules rests with the individual Commission member.
- (3) **General Provisions:**
 - (A) **Definitions:**
 1. **Potential Conflict of Interest:** ~~This is a~~ An activity or financial interest which may lead to either an actual conflict of interest or the appearance of a conflict of interest.
 - A. **Actual Conflict of Interest:** ~~This is a~~ An activity or financial interest which is prohibited by law or rule.
 - B. **Appearance of Conflict of Interest:** ~~This is a~~ An activity or financial interest which is not prohibited by law or rule, but may appear to be a conflict of interest in the eye of the beholder and thereby controversial in nature.
 2. **Abstention/Abstain:** ~~This is a~~ An action by a Commission member to decline to vote on a Commission agenda item/issue; however, ~~abstention/abstaining permits~~ the member ~~may~~ to participate in and/or listen to Commission discussion of the issue.
 3. **Recusal/Recuse:** ~~This is a~~ An action whereby the member excuses himself or herself from an agenda item/issue. ~~When recusing, the~~ ~~The~~ member would not:
 - A. ~~be~~ provided Commission meeting backup material regarding the matter;
 - B. ~~listen~~ to or participate in Commission discussion of the issue ~~in a closed Commission meeting~~;
 - C. ~~Participate in the discussion of the issue in an open Commission meeting~~;
 - D. ~~vote~~ on the agenda item/issue; and
 - E. ~~communicate~~ with any Commission member ~~and~~/or MoDOT employee regarding the issue.
 4. **Statutory Prohibitions:** Any action, activity, affiliation, or association expressly or impliedly prohibited by a state or federal statute or administrative rule including, but not limited to, the prohibitions contained within section 226.090, RSMo. This section prohibits commission members from having any direct or indirect interest in, or acting as agent for, “the sale of road or bridge building

material, equipment, tools, machinery or supplies, or in any contract for the construction or maintenance of state highways or bridges, or the financing thereof, or in any performance bond or workers' compensation or any other insurance furnished to the commission, or insurance furnished to any person, firm or corporation contracting with the commission” (**Exhibit 1**).

(B) Informal Advisory Opinions: Upon request, the chief counsel will provide any Commission member with an attorney client privileged informal advisory opinion regarding any potential conflict of interest about which the Commission member may have any question or concern.

(C) Governor's ~~director of boards and commissions~~ Office: The commission secretary shall correspond with the ~~governor, the governor's counsel, and the governor's~~ director of boards and commissions to provide a copy of this policy six months prior to the scheduled expiration of any Commission member's term of office, or as soon as possible upon the inability of any Commission member to complete his/her scheduled ~~membership~~ term of office for any reason. The commission secretary shall provide a copy of the correspondence to the director and the chief counsel. The purpose of this requirement is to assist the governor's staff in advising prospective Commission members of the:

1. Commission's policy for Commission Members to Disclose Potential Conflicts of Interest.

2. Statutory prohibitions, including those contained in section 226.090 (**Exhibit 1**) ~~ethics statutes~~.

3. Application of ~~some of the~~ relevant ~~conflict of interest and ethics~~ statutes that could ~~cost~~ have an adverse financial impact on prospective Commission members ~~money because~~ based on MoDOT's long-standing practice, to avoid an actual conflict of interest or the appearance of a conflict of interest, of ~~refrainings~~ from making purchases during a Commission member's term of office from any business in which a Commission member has a financial interest. (~~e.g., section 105.454.1(1) and (2) RSMo) and section 226.090, RSMo which/or because Commission members are prohibit Commission membersed by law from “directly or indirectly, hav[ing] any direct or indirect pecuniary interest in” the sale of road or bridge building material, equipment, tools, machinery or supplies, or in any contract for the construction or maintenance of state highways or bridges, or the financing thereof, or in any performance bond or workers' compensation or any other insurance furnished to the commission, or insurance furnished to any person, firm or corporation contracting with the commission the Commission's procurement of specified supplies, contracts for construction and maintenance of roads and the like under section 226.090 RSMo); and.~~

4. ~~Commission's policy for Commission Members to Disclose Potential Conflicts of Interest.~~

(D) Conflicts ~~e~~Committee: There shall be a MoDOT ~~shall maintain a~~ standing conflicts committee to consist of the: chief engineer; chief financial officer; commission secretary; and director of audits and investigations. The chief counsel, or his/her designated representative, shall serve as counsel to the committee.

(E) State Financial Interest Statements: In addition to the required filing with the Missouri Ethics Commission, Commission members should file copies of their ~~State~~ Financial Interest Statements (also titled by the Missouri Ethics Commission as the Personal Financial Disclosure Statements) required by section 105.483(4) RSMo with the commission secretary who will provide copies of such statements to the members of the conflicts committee and the chief counsel to aid in assisting Commission members in identifying potential conflicts of interest.

(F) Annual ~~r~~Review of ~~s~~Statutes: After each legislative session, the chief counsel will review ~~the applicable statutes~~ truly agreed and finally passed bills approved by the Governor and, if appropriate, prepare a report for the Commission with recommendations regarding any proposed changes to this policy.

(4) Procedure ~~F~~for ~~D~~Disclosure ~~B~~by ~~A~~All Commission ~~M~~members of ~~P~~Potential ~~C~~onflicts of ~~I~~nterest:

- (A) **Commission Member Disclosure Report:** When a Commission member is first appointed to the Commission, the member should file a written Commission Member Disclosure Report with the commission secretary, on a form provided by the commission secretary that ~~at a minimum~~ includes:
1. A list of the member's current employer(s), if any, and all business entities, if any, in which the member ~~is an officer and/or~~ has any ~~ownership or~~ financial interest that may directly or indirectly do business with the Commission/MoDOT in an industry or business prohibited by section 226.090, RSMo (see Exhibit 1). Such list should include~~ing~~ the nature of the business or activity;
 2. A list of all real estate located in Missouri in which the member (individually or through a business entity ~~in which the member is an officer~~), has any ~~ownership, leasehold, or other possessory or~~ financial interest including the general nature of such interest (e.g., ownership, lease, etc.), the use (e.g., residential, farming, commercial, etc.) and location (street address or township and range) of such real estate;
 3. A list of any other activities ~~and/or~~ financial interests in a ~~charitable, governmental, or for-profit~~ organization, association, district, business entity or the like in which the member has no ownership or financial interest and receives no income, such as a membership in or; serving on a board of directors, or the like, including the general nature of the activity or interest (e.g., professional, social, charitable, etc.); and
 4. For ~~only~~ Commission members who are attorneys, a list of all current and past law firm clients doing business with, being regulated by, or litigating for or against the Commission/MoDOT ~~from which the member received or receives income~~, including the nature of the client's business.
- (B) **Distribution of Commission Member Disclosure Report:** The commission secretary will distribute the Commission Member Disclosure Report to all Commission members, the director, the chief counsel, all members of the conflicts committee, all MoDOT division directors, and all district engineers.
- (C) **Division and District Review:** ~~The~~ MoDOT division directors and the district engineers review the Commission Member's Disclosure Reports and provide written comments to the commission secretary regarding:
1. The effect of any potential conflict of interest on his/her area of responsibility; and
 2. Any additional information known by the staff that may have been overlooked by the Commission member in preparing the report.
- (D) **Conflicts Committee Review and Advice To Director:** After reviewing the Commission Member Disclosure Reports and the staff comments, the conflicts committee shall advise the director of potential conflicts and the recommended course of action, if any, to be taken by MoDOT and the affected Commission member(s).
- (E) **Discussion With Member:** With director concurrence of the course of action, the commission secretary and/or chief counsel will discuss the matter with the affected Commission member(s).
- (F) **Amended Commission Member Disclosure Report:**
1. After filing a report with the commission secretary, if any Commission member becomes aware that any of ~~the~~ his or her activity, financial interest, or specific matter to be presented to the Commission creates a potential conflict of interest, the Commission member should file a disclosure letter with

the commission secretary to direct that the member's report be amended to include the potential conflict of interest.

2. The commission secretary will distribute any amended Commission Member Disclosure Report as provided in section (4)(B) above.

(G) **Assistance To Members:** To assist the Commission members in identifying potential conflicts of interest, the director, commission secretary, chief counsel, and MoDOT division directors and district engineers will make every effort to alert the Commission member if a ~~disclosed item~~ **business entity, real estate interest, or any other item reported on a Commission Member Disclosure Report** is related in any way to an agenda item before the Commission for its action. This notice will include projects located within one mile of any real property in which a Commission member individually or **through** a business entity in which the member ~~is an officer~~, has any ownership, leasehold, or other possessory or financial interest.

(H) **Member's Determination Regarding Participation In A Commission Action:** If a Commission member determines a Commission meeting agenda item is a potential conflict of interest for herself or himself, the Commissioner should either abstain from voting on the issue or recuse himself or herself from ~~Commission discussion and voting on~~ the issue.

(I) **Annual Update:** The commission secretary will provide an annual reminder notice to each Commissioner to update, if appropriate, due to a changed circumstance, his/her Commission Member Disclosure Report.

(5) **Real Property Acquisition Procedure:** When a Commission member individually, or in a business entity in which the member ~~is an officer~~ has any ownership, leasehold or other possessory or financial interest in real property, for which an offer of just compensation will be made so that it may be acquired by the Commission for a project, the following procedure should be used by the Commission member and shall be followed by MoDOT staff and special conflicts counsel.

(A) **Fee Appraisal(s):** The district right of way staff will ~~have~~ **prepare** a preliminary estimate of damages in a fee study. If in the fee study, the apparent compensation is estimated to be \$500 or more, the staff will have one or more fee appraiser(s) determine just compensation for the property to be acquired and the damage, if any, to the property's remainder. If the apparent compensation in the fee study is less than \$500, the appraisal will be prepared by district staff appraisers and approved by a district right of way manager who is a certified appraiser.

(B) **Central Office Review and Approval:** If the approved offer is \$500 or more, a central office right of way appraiser or right of way liaison officer who is also a certified appraiser will review the appraisal(s) and determine the approved offer of just compensation.

(C) **FHWA Review and Approval:** MoDOT staff will secure review and approval of the appraisal(s) and the approved offer of just compensation from the Federal Highway Administration.

(D) **Commission Review and Approval When Approved Offer Exceeds \$500:** When the approved offer exceeds \$500, section 105.454.1(2) RSMo requires public notice before the sale of real property. Therefore, the state design engineer shall place the matter on the Commission's open session meeting agenda for the Commission to review and finally approve the offer of just compensation (with the affected member recusing himself/herself from ~~discussion and voting the agenda item~~) prior to the offer being made to the Commission member. To provide adequate public notice, the agenda item shall be styled: "Purchase of Real Property Interest from Commissioner _____." ~~However, if the approved offer does not exceed \$500, Commission review and approval is unnecessary.~~

(E) **Offer Of Just Compensation To Commission Member:** The approved offer will then be made by

the district's right of way staff to the Commission member, or the corporation or entity for which the member ~~is an officer~~ has a financial interest, or ~~his/her/its~~ the authorized representative. However, ~~if the offer is more than \$10,000~~, the member/corporation/entity will be encouraged to refuse the offer and go through condemnation to avoid any appearance of impropriety ~~if the offer is more than \$10,000. Provided further, however, I~~ If the offer is \$10,000 or less, the member/ corporation/entity need not be encouraged to go through condemnation and may execute a deed for the real property ~~as a willing seller~~ in exchange for the approved offer.

- (F) **Condemnation:** If the Commission member agrees to the condemnation, the parcel will be condemned at the first opportunity by special conflicts counsel approved by the Commission (with the affected member recusing herself/himself from ~~discussion and voting~~ the agenda item).
 - (G) **Settlement:** Once the condemnation commissioners appointed by the circuit court have ~~set~~ determined a value for the property, if that value is acceptable to all parties, a proposed settlement in the amount of the condemnation commissioners' award should be presented to the court for its review, approval, and entry of a judgment; ~~however the special conflicts counsel shall request that but the court shall be requested by the special conflicts counsel to~~ delay its ~~action~~ entry of judgment until after the ~~member's~~ Commissioner's membership term ends to avoid any appearance of impropriety.
 - (H) **Jury trial:** Should either party ~~not~~ disagree with the value established by the condemnation commissioners and file exceptions to the condemnation commissioners' award, the special conflicts counsel should prepare the case for trial; ~~however, but the special conflicts counsel shall request the circuit court delay the jury trial until after the Commission member's no longer serves on the Commission term expires~~ to avoid any appearance of impropriety. The final price for the property will be that determined by jury verdict and the court's final judgment after appeal, if any.
 - (I) **Rule 17:** Should the circuit court refuse under section (5)(G) or (H) above to delay the action under Missouri Supreme Court Operating Rule 17, the special conflicts counsel shall consult with the Commission in closed meeting regarding the appropriate course of action (with the affected Commission member being recused from the meeting).
- (6) **Ethics Conflict of Interest Statutes:** The applicable statutes are complex and difficult to reasonably apply in some situations.
- (A) **Section 226.090 RSMo:** Attached ~~A summary of the applicable statutes is attached~~ as EXHIBIT 1.
 - (B) **Summary of Statutes:** EXHIBIT 2 is a summary of applicable Conflicts of Interest Statutes. A copy of the statutes is available upon request to the chief counsel.

Effective Date: January 3, 2024 ~~October 3, 2018~~
Supersedes Policy Dated: October 3, 2018 ~~November 7, 2013~~
Last Reaffirmed:
Date of Origin: November 4, 1994

Related Commission Actions: November 4, 1994; December 1, 1995; April 3, 1997; March 12, 1999; May 5, 2000; November 8, 2000; September 4, 2003; November 9, 2005; November 7, 2013 – Comprehensive Policy Review; October 3, 2018 – Comprehensive Policy Review; January 3, 2024.

EXHIBIT 1
MISSOURI REVISED STATUTES

Chapter 226
Department of Transportation

STATE HIGHWAYS AND TRANSPORTATION COMMISSION

226.090. Commissioners and employees — oath — bond — selection and removal of employees to be without regard to political affiliation. — All members of the commission, and every other person appointed to office, or employed by the commission, shall, before entering upon the duties of his office or employment, take and subscribe to an oath or affirmation to support the Constitution of the United States and of this state, and to faithfully and honestly discharge the duties of such office or employment. **No member of the commission, engineer, or other person appointed or employed by the commission shall, directly or indirectly, have any pecuniary interest in, or act as agent for, the sale of road or bridge building material, equipment, tools, machinery or supplies, or in any contract for the construction or maintenance of state highways or bridges, or the financing thereof, or in any performance bond or workers' compensation or any other insurance furnished to the commission, or insurance furnished to any person, firm or corporation contracting with the commission.** Any officer or employee of the commission who has custody or control of property or funds of the state, shall give a good and sufficient bond, in an amount and with sureties satisfactory to the commission, conditioned upon the faithful discharge of the duties of his office and upon the accounting for all property and funds coming into his hands by, through or from such office. Any officer or employee who shall violate the provisions of this section shall be guilty of a misdemeanor. The commission shall have power to remove any officer or employee of the commission. The selection and removal of all employees of the highways and transportation commission, of the transportation department, or of the department of transportation, shall be without regard to political affiliations.

(RSMo 1939 § 8749, A.L. 1945 p. 1408, A.L. 1951 p. 800)

Prior revision: 1929 § 8101

EXHIBIT 12
SUMMARY OF APPLICABLE ETHICS-CONFLICT OF INTEREST STATUTES
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- 105.485 Financial interest statements-form-contents-political subdivisions, compliance.
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- 105.489 Financial interest statements-to be kept with filing officer.
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(4) General conflict of interest and lobbying statute 16

- 105.452 Prohibited acts by elected and appointed public officials and employees.
- 105.454 Additional prohibited acts by certain elected and appointed public officials and employees, exceptions.
- 105.455 Six-month waiting period for certain elected or appointed officials --limited to compensated lobbyists--exemptions—definitions.
- 105.466 Exceptions to applicability of sections 105.450 to 105.458, 105.462 to 105.468, and 105.472 to 105.482.
- 105.470 Definitions.
- 105.472 Violation of law-complaint-oath.
- 105.473 Duties of lobbyist-report required, contents-exception-penalties- supersession of local ordinances or charters.
- 105.478 Penalty.

ENDNOTES:

- 1** Definition of Business **13, 16**
- 2** Definition of Property **15, 16**

(1) Introduction: Commission members should be familiar with the applicable ethics statutes. The statutes are summarized in this exhibit. A copy of the applicable statutes are available upon request to the chief counsel.

(2) Specific conflict of interest statutes applicable to MHTC members:

(A) Political fundraising--Section 226.033 RSMo says that any Commission member shall not:

- 1.** Host or manage a political fund-raiser or solicit funds for any candidate who is seeking a statewide or nationally elected office; or
- 2.** Serve on the board or chair any political action committee, political party committee, or continuing committee.

(B) Highway construction, maintenance, funding and insurance—

1. Section 226.090 RSMo prohibits actual conflicts of interest and provides, in part, that no Commission member or MoDOT employee shall, directly or indirectly, have any pecuniary interest in, or act as agent for, the sale of road or bridge building material, equipment, tools, machinery or supplies, or in any contract for the construction or maintenance of state highways or bridges, or the financing thereof, or in any performance bond or workers' compensation or any other insurance furnished to the Commission, or insurance furnished to any person, firm or corporation contracting with the Commission.

2. Section 226.090 RSMo states that a violation of its provisions is an unspecified misdemeanor. Pursuant to section 557.021.1 RSMo, unspecified misdemeanors carry the penalty of a class A misdemeanor.

A. Section 558.002.1(2) RSMo says that a person who is convicted of a class A misdemeanor

may be sentenced to pay a fine which does not exceed **\$2,000**.

- B.** Section 558.011.1(6) RSMo says a person convicted of a class A misdemeanor may serve a prison term not to exceed **1 year**.
- (C) Specific removal statute applicable only to MHTC members:** Section 226.030 RSMo provides that any commission member may be removed by the governor if the governor is fully satisfied of the Commission member's inefficiency, neglect of duty, or misconduct in office.
- (D) Motor carrier and railroad regulation--**Sections 226.008, 622.120 and 622.130 RSMo apply to MoDOT and its employees as a result of the 2002 One Stop merger and prohibit certain acts and financial interests.
 - 1.** Section 226.008.5 RSMo abolished the division of motor carrier and railroad safety within the department of economic development.
 - 2.** Pursuant to Section 226.008.3 RSMo, all the powers, duties and functions of the division of motor carrier and railroad safety under state law, including Chapter 622 RSMo, were transferred to MoDOT, which is governed by the Commission.
 - 3.** In the opinion of the chief counsel, section 622.120 RSMo prohibits the Commission from appointing anyone to an office or MoDOT from employing anyone in a position involved in the regulation of motor carriers or railroads who holds any official relation to, owns stocks or bonds therein or has any pecuniary interest in any common carrier, railroad corporation, street railroad corporation, transportation of freight or property company, carrier, corporation or person subject to any of the provisions of chapters 387, 388, 389, 390, 391 or 622 RSMo.
 - 4.** In the opinion of the chief counsel, section 622.130 RSMo prohibits any person appointed by the Commission to an office or employed by MoDOT in a position involved in the regulation of motor carriers or railroads from recommending any person for employment, directly or indirectly, to any common carrier or other person subject to regulation. Also, any regulated person or entity is forbidden from providing any Commission appointee or MoDOT employee any transportation that is free or at a reduced rate, or any present, gift, entertainment, or gratuity of any kind.
 - A.** Any Commission appointee or MoDOT employee who violates section 622.130 RSMo is subject to removal from office or employment and further is guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding \$1,000 or imprisonment not exceeding one year, or by both fine and imprisonment. Section 622.130.2 and .4 RSMo.
 - B.** Section 622.130.3 RSMo provides that if any common carrier or other person subject to the supervision of MoDOT violates 622.130 RSMo it, he, or she shall be liable to the state of Missouri in a civil action for a civil penalty not to exceed \$20,000 in addition to any other penalty for violation of chapter 622 RSMo.
- (3) General financial interest statement statutes:** Sections 105.483 to 105.492 and 105.963 RSMo, as amended, are applicable to certain state officials and decision making public servants, including Commission members and select MoDOT management, and require Commission members to file annual financial interest statements with the Missouri Ethics Commission which are then public records.
 - (A)** Section 105.485 RSMo requires Commission members in their annual statements to disclose specified information for the member, their spouse, and the member's dependent children, including, but not limited to:
 - 1.** annual income of \$1,000 or more from an employer (§105.485.2(1) RSMo);

- 2.** the identity of any business entity¹ in which the member has an ownership interest;
 - A.** except that for closely held corporations or limited partnerships, no disclosure is required if the member owns less than 10% of any outstanding stock or limited partnership units; and
 - B.** further except that for any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system, no disclosure is required where the member owns less than 2% of any class of outstanding stock, limited partnership units or other equity interests unless the member receives \$1,000 or more income per year from such business entity which would then require disclosure (§105.485.2(2), (3) RSMo);
- 3.** the name and address of each business entity in which the member owns stock, bonds, or other equity interest with a value in excess of \$10,000 except that such member does not need to report interests in publicly traded corporations or limited partnerships listed on a regulated stock exchange or automated quotation system nor interests in any qualified plan/annuity pursuant to the Employees' Retirement Income Security Act (§105.485.2(5) RSMo);
- 4.** the location and property tax classification of any real property in Missouri owned (or leased for more than 10 years) other than the member's residence, having a fair market value of \$10,000 or more, and, if the property is transferred during the year covered by the statement, the name and address of the person furnishing or receiving consideration for such transfer (§105.485.2(4) RSMo);
- 5.** the identity of each corporation for which the member served in the capacity of a director, officer or receiver (§105.485.2(6) RSMo);
- 6.** the name and address of each not-for-profit corporation, organization or union, whether incorporated or not, except for not-for-profit corporations formed to provide church services, fraternal organizations, or service clubs in which such person was an officer, director, employee or trustee but which the member draws no remuneration, as well as a general description of the nature and purpose of the organization (§105.485.2(7) RSMo);
- 7.** the name and address of each source from which the member received a gift or gifts, or honoraria or honorarium in excess of \$200 in value per source during the year covered by the statement; excepting gifts from family members within the third degree of consanguinity or affinity or gifts construed to mean political contributions otherwise required to be reported, or gifts of hospitality such as food, beverages, or admissions to social, art, or sporting events, or informational material. A gift would include gifts to or by creditors of the member for the purpose of canceling, reducing or otherwise forgiving the indebtedness of the member to that creditor (§105.485.2(8) RSMo);
- 8.** the lodging and travel expenses provided by any third person for expenses incurred outside the state of Missouri whether by gift or in relation to the duties of the member's office with exceptions for travel for which the official may be reimbursed as provided by law, paid by family members, and the like (§105.485.2(9) RSMo);
- 9.** the assets in a revocable trust (§105.485.2(10) RSMo);
- 10.** the name, position, and relationship of any relative within the first degree of consanguinity or affinity to the member who: (1) is employed by the state of Missouri, by a political subdivision of the state, or a special district; (2) is a lobbyist; or (3) is a fee agent of the Department of Revenue (§105.485.2(11) RSMo); and
- 11.** the name and address of each campaign, political, continuing or candidate committee for which such person or any corporation listed on the person's financial interest statement, received payment (§105.485.2(12) RSMo).

(B) Violation of these sections may result in:

- 1.** a member's loss of compensation, suspension, removal from office, and/or a daily late filing fee of \$10/day, increasing to \$100/day after 30 days from receipt of notice from the Missouri Ethics Commission of the person's failure to file a financial interest statement (§105.492 and 105.963.3 RSMo); and/or
- 2.** pursuit of a criminal charge of a class B misdemeanor for knowingly misrepresenting or omitting any facts required to be contained in the financial interest statement (§105.492.4 RSMo).
 - A.** Section 558.002.1(3) RSMo says that unless specifically provided otherwise, a person convicted of a class B misdemeanor may be sentenced to pay a fine that does not exceed **\$1,000**.
 - B.** Section 558.011.1(7) RSMo says a person convicted of a class B misdemeanor may serve a prison term not to exceed **6 months**.

(4) General conflict of interest and lobbying statutes:

(A) Sections 105.452 and 105.454 RSMo are general conflict of interest statutes applicable to all state officials and employees including MHTC members and MoDOT employees. These statutes prohibit actual conflicts of interest including, but not limited to:

- 1.** favorably acting or refraining from acting on any matter or using decision making authority to obtain financial gain (§105.452.1(1), (4) and (5) RSMo);
- 2.** using confidential information obtained in his/her official capacity in any matter with the intent to result in financial gain for himself, his spouse, his dependent child, or any business with which he is associated (§105.452.1(2) RSMo);
- 3.** disclosing confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself or any other person (§105.452.1 (3) RSMo);
- 4.** performing any service for an agency in which he/she is an officer or employee or has supervisory authority for payment in excess of **\$500** per transaction or **\$5,000** per year without competitive bidding (§105.454.1(1) RSMo);
- 5.** participating in any matter, directly or indirectly, in which he or she attempts to influence any decision of any agency of the state in which he or she is an officer or over which he or she has supervisory power, when he or she knows the result of such decision may be the acceptance of the performance of a service or the sale, rental or lease of any property to that agency for consideration in excess of five hundred dollars' value per transaction or five thousand dollars' value per annum to him or her, to his or her spouse, to a dependent child or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received (§105.454.1(3) RSMo); and
- 6.** selling or leasing any property² to an agency in which he/she is an officer or employee or has supervisory authority over for payment in excess of **\$500** per transaction or **\$5,000** per year without competitive bidding (§105.454.1(2) RSMo). However, this provision does not apply to property that is condemned by the agency from its officer or employee (§105.466.3 RSMo).

- (B) Section 105.455 RSMo prohibits Commission members who vacate the office, whether by resignation, expulsion, or otherwise, from acting, serving, or registering as a lobbyist until six months after the vacation of such office.
- (C) Section 105.470 RSMo defines an “executive lobbyist” as a person who attempts to influence the actions of the executive branch of government, including a commission like the Commission. The conduct of executive lobbyists is regulated and for things like food and beverages, fees that are waived or reduced, gifts, and transportation costs, expenditures made by an executive lobbyist in lobbying appointed officials, like Commission members, must be reported to the Missouri Ethics Commission and are available for public inspection. For example, gifts of baseball tickets, meals and greens fees fall within the definition of “expenditure” and must be reported by the lobbyist, not the Commission member, with certain listed exceptions, such as when the ticket, meal, or green fee is necessary for the Commission member to perform his/her duty as a Commission member when participating in a ceremony, public presentation or official commission meeting.
- (D) A first violation of these sections is a class B misdemeanor, but subsequent violations are class E felonies. Section 105.478 RSMo.
 - 1. Section 558.002.1(1) RSMo says that a person who is convicted of a class E felony may be sentenced to pay a fine which does not exceed **\$10,000**.
 - 2. Section 558.011.1(5) RSMo says a person convicted of a class E felony may serve a prison term not to exceed **4 years**.

ENDNOTES:

- 1 **Definition of Business:** Business entity means any corporation, association, firm, partnership, proprietorship, or business entity of any kind or character (§105.450(2)RSMo).
- 2 **Definition of Property:** Property includes both real property and personal property. Real property includes land or real estate, including whatever is erected on, growing on, or affixed to the land. Personal property includes all property that is not real property, including corporeal personal property such as products, equipment, machinery, tools, autos, merchandise, animals, etc., and incorporeal property such as stocks, bonds, annuities, patents, copyrights, etc.

* * * * *

STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP)

CONSIDERATION OF BIDS FOR TRANSPORTATION IMPROVEMENTS

On behalf of the Director, Danica Stovall-Taylor, Bidding and Contract Services Engineer, presented the following recommendations pertaining to bids received on federal aid and state highway and bridge projects during the past month.

Ms. Stovall-Taylor recommended: (1) Award of contracts to the lowest responsive bidders for bids received at the January 19, 2024, letting, as recommended, and noted in Table I below.

**Table I
Award of Contracts
January 19, 2024, Bid Opening**

Call No.	Route	County	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
A04	I-29, I-229, I-35	Andrew, Atchison, Buchanan, Holt	JNW0101	\$855,044.37	\$0.00	IBC Traffic Inc.	Pavement Marking
B01	61	Clark	J2P3062	\$5,425,677.12	\$0.00	W. L. Miller Company	Raising Pavement
B02	AA	Monroe	J2S3317	\$928,839.00	\$0.00	Gene Haile Excavating, Inc.	Bridge Replacement
B03	A	Scotland	J2S3324	\$767,287.34	\$0.00	Emery Sapp & Sons, Inc.	Bridge Rehabilitation
	T		J2S3326				
B04	36	Marion, Shelby	JNE0160	\$5,119,292.11	\$0.00	Emery Sapp & Sons, Inc.	Resurface, Pavement Repairs, and Pavement Grooving
B05	US 63	Adair	JNE0168	\$856,288.65	\$0.00	Emery Sapp & Sons, Inc.	4 Bridge Rehabilitations
C01	13	Lafayette	J3P3085H	\$868,231.65	\$0.00	Meyer Electric Company, Inc.	Intersection Improvements
C02	I-70, I-35, I-29,I-49	Cass, Clay, Jackson, Platte	JKU0233	\$1,019,987.72	\$0.00	IBC Traffic Inc.	Pavement Marking
D01	54	Camden	J5P3270B	\$656,186.00	\$0.00	International Rigging Group, LLC	Bridge Painting
			J5P3460B				
D03	54	Cole	J5P3467	\$3,309,174.67	\$0.00	Concrete Strategies, LLC	2 Bridge Rehabilitations
	B		J5S3464				Bridge Rehabilitation
D04	5	Cooper	J5P3513	\$874,083.00	\$0.00	Gene Haile Excavating, Inc.	Bridge Rehabilitation
	O		J5S3450				Bridge Deck Replacement
D05	740, M	Boone	J5S3369C	\$2,226,386.03	\$0.00	S & A Equipment & Builders, LLC	ADA Improvements
D06	P	Howard	J5S3461	\$481,924.00	\$0.00	Gene Haile Excavating, Inc.	Bridge Deck Replacement
D07	BB	Callaway	J5S3463	\$517,048.00	\$0.00	E & C Bridge, LLC	Bridge Deck Replacement

Call No.	Route	County	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
D08	D	Cole	J5S3526	\$859,429.95	\$0.00	Gene Haile Excavating, Inc.	Bridge Deck Replacement
D09	BB, Z, P, AA	Maries, Miller, Pulaski	JST0072	\$1,799,991.05	\$0.00	Willard Asphalt Paving, Inc.	Resurface
F01	I-44, OR	Franklin	J6S3609	\$4,749,461.40	\$0.00	N.B. West Contracting Company	Resurface, ADA Improvements, and Bridge Rehabilitation
F02	N	Franklin	J6S3630	\$1,922,425.74	\$0.00	N.B. West Contracting Company	Resurface
F03	Various	Franklin, Jefferson, St Louis	JSL0005	\$1,449,233.20	\$0.00	R. V. Wagner, Inc.	Fixed Price Variable Scope for Bridge Crack Filling
F04	I-55	Jefferson, St Louis	JSL0123	\$432,021.95	\$0.00	STF, LLC dba Traffic Control Company	Pavement Marking
F05	AH, I-44 OR, 185 Spur	Franklin, Jefferson, St Francois	JST0077	\$331,989.26	\$0.00	N.B. West Contracting Company	Fixed Price Variable Scope for Seal Coat
F7A	V	St Charles	J6S3487	\$2,655,184.55	\$0.00	Byrne & Jones Enterprises, Inc. dba Byrne & Jones Construction	Full Depth Reclamation, Coldmill and Resurface
	Y		J6S3607				Resurface
F7B	Huster Rd.		JSL0018				Full Depth Reclamation and Resurface
G02	60	Newton	J7P3386B	\$828,506.80	\$0.00	Branco Enterprises, Inc.	Concrete Pavement Repair
G03	K	Barton	J7P3484B	\$2,749,000.00	\$0.00	Hartman and Company, Inc.	Bridge Replacement
	O		J7S3522				
G04	7	Henry	J7P3528	\$3,176,690.00	\$0.00	KCI Construction Company	2 Bridge Replacements
G06	C	McDonald	J7S3523	\$828,879.00	\$0.00	KCI Construction Company	Bridge Deck Replacement

Call No.	Route	County	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
G09	60	Greene	J8S3240	\$1,136,490.00	\$0.00	KCI Construction Company	Bridge Rehabilitation and ADA Improvements
G12	Benton, Hickory, Newton, Polk, Taney, Webster	BB, 83, J, V, 123, 76, 176, C, BB, NN	JSR0145	\$2,832,280.00	\$0.00	Blevins Asphalt Construction Company, Inc.	Seal Coat
G13	B, MM	Greene	J8S3239	\$346,255.70	\$1,100.00	Midwest Traffic Signal Services, LLC	Signing, Signals, Lighting, and ITS
G14	Various	Various	J8P3234	\$1,478,000.00	\$0.00	KCI Construction Company	Job Order Contract for Bridge Repair
			J7I3467				
H01	17	Texas	J9P3604	\$8,135,000.00	\$0.00	Pace Construction Company, LLC	Resurface
			J9P3607				
H02	34	Bollinger, Wayne	J9P3784	\$3,853,285.23	\$0.00	Missouri Petroleum Products Company, LLC	Scrub Seal
	19	Oregon, Shannon	J9P3785				
	143	Iron, Wayne	J9S3783				
	AA	Reynolds, Wayne	J9S3786				
	NN	St. Francois	J9S3787				
	BB	St. Francois	J9S3789				
	F	St. Francois, Ste. Genevieve	J9S3797				
	C		J9S3788				
H03	49	Iron	J9P3849	\$1,099,217.02	\$0.00	Mera Excavating, LLC	Bridge Replacement
H04	EE	Cape Girardeau, Scott	J9S3477	\$2,065,468.36	\$0.00	Apex Paving Co.	Resurface
	M	Stoddard	J9S3485				
H05	B	Carter	J9S3612	\$997,459.90	\$0.00	Joe's Bridge & Grading, Inc.	Bridge Replacement

Call No.	Route	County	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
H06	M	Wright	J9S3611	\$913,134.20	\$0.00	Gene Haile Excavating, Inc.	Culvert-Bridge Replacement
H07	D	Cape Girardeau	J9S3645	\$3,496,705.10	\$0.00	Joe's Bridge & Grading, Inc.	Bridge Replacement
	P	Stoddard	J9S3642				Bridge Superstructure Replacement
	Z	Scott	J9S3640				Bridge Replacement
	ZZ	Bollinger	J9S3646				Bridge Replacement
H08	75	Mississippi	J9S3769	\$3,870,860.65	\$0.00	Robertson Contractors, Inc.	Bridge Replacement
	D	New Madrid	J9S3641				
			J9S3724				
E		J9S3723					
H09	E	Pemiscot	J9S3675	\$1,368,092.85	\$0.00	Apex Paving Co.	Resurface
H11	C	Cape Girardeau, Perry	J9S3793	\$1,326,203.50	\$0.00	Missouri Petroleum Products Company, LLC	Scrub Seal
	A	Perry	J9S3792				
	K		J9S3791				
	P		J9S3799				
H12	164	Pemiscot	J9S3795	\$898,805.95	\$0.00	Missouri Petroleum Products Company, LLC	Scrub Seal
	A		J9S3794				
	T	New Madrid, Pemiscot	J9S3800				
H13	60, 63, 67	Butler, Carter, Howell, Madison, New Madrid, Scott, Shannon, St. Francois, Stoddard, Texas, Wayne, Wright	JSE0181	\$2,193,614.90	\$0.00	STF, LLC dba Traffic Control Company	Pavement Marking
			TOTAL:	\$81,699,135.92	\$1,100.00		

Commission Consideration and Action

After consideration, and upon motion by Commissioner Boatwright, seconded by Commissioner Erdman, the Commission took the following action with abstentions noted below.

1. Awarded contracts to the lowest responsive bidders for bids received at the January 19, 2024, bid opening, as recommended, and noted in Table I above. Non-contractual costs for these projects are shown on the above tabulation.
2. Authorized the Director, Deputy Director/Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute the contracts awarded above.

Commissioner Boatwright abstained from voting on Calls H04, H07, H08, H12, and H13. Commissioner Smith abstained from Call D01. Commissioner Erdman abstained from voting on Calls C02, D01, G02, and G12. Commissioner Hegeman abstained from Call A04.

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REPORT AND RECOMMENDATIONS REGARDING THE SOUTHWEST DISTRICT BRIDGE BUNDLE PROJECT IN HENRY, BATES, CEDAR, ST. CLAIR, BENTON, AND VERNON COUNTIES, INCLUDING APPROVAL AS A DESIGN-BUILD PROJECT AND DELEGATION OF AUTHORITY

On behalf of the Director, Stacey Reese, Southwest District Engineer, recommended the Commission approve the Southwest District Bridge Bundle as a Design-Build project and approve authority be delegated to the Deputy Director/Chief Engineer or his designee to approve and execute documents and expend funds on behalf of the Missouri Highways and Transportation Commission for the following items on the Southwest District Bridge Bundle Design-Build Project:

- **Escrow of Bid Documents** – Approve authority to execute agreements, affidavits, and related documents and expend funds for costs associated with the escrow of bid documents on the project.
- **Agreements** – Approve authority to execute agreements with local governments including other entities for cost-share, enhancements, use of property, environmental mitigations, utilities, etc. on the project, subject to approval as to form by the Chief Counsel’s Office (CCO) and the Commission Secretary’s (CS) attestation.
- **Railroad Agreements** – Approve authority to execute agreements pertaining to railroads, subject to approval as to form by CCO and CS attestation.
- **Construction Change Orders** – Approve authority to approve construction change orders on the project.
- **Consultant Engineering Services** – Approve authority to execute contracts for engineering services needed subject to approval as to form by CCO and CS attestation and in keeping with the Brooks Act, 40 USC 1101 et seq. and 23 CFR 172.5 as well as Section 8.285 RSMo.

- **Other** – Approve authority to expend funds for the project, as well as approve, execute, sign and seal project specific documents.
- **Design Exceptions** – Approve authority to sign design exceptions specific to the design of the project currently delegated to the District Engineer, State Design Engineer, and the State Bridge Engineer, subject to consultation with the department’s technical experts per the Design Exception Process in MoDOT’s Engineering Policy Guide.

Project changes resulting from this delegation will not exceed the cap of two percent over the programmed cost or those changes will be taken back to the Commission.

The Southwest District Bridge Bundle procurement process will begin May 2024. Funds for this project are included in the Statewide Transportation Improvement Program. The project is estimated at \$35 million total for right of way, utility relocation, and the design-build contract. Via approval of the consent agenda, the Commission unanimously approved the Southwest District Bridge Bundle as a Design-Build project and delegation of authority as recommended and noted above.

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IMPROVE I-70 PROGRAM CONTRACT AUTHORIZATIONS

On behalf of the Director, Eric Kopinski, I-70 Program Coordinator, explained Interstate70 remains a vital east-west corridor that supports economic activity in Missouri and across the country. Approximately 56,000 vehicles travel on I-70 daily, twenty-five percent of which are commercial vehicles. Improving I-70 fulfills a critical need for the state. Historic investment in I-70 began in 2023 with Governor Parson’s call on the General Assembly to make a generational investment to widen and rebuild the I-70 corridor demonstrating his ongoing commitment to transportation. The General Assembly demonstrated their support for improving I-70 through passage of MoDOT’s fiscal year 2024 appropriations bills. These bills, approved by Governor Parson, provide unprecedented levels of General Revenue for the costs to plan, design, construct, reconstruct, rehabilitate, and repair three lanes in each direction on approximately two hundred miles of I-70.

One of the conditions for the transfer of General Revenue into the State Road Fund I-70 Project Fund for the Improve I-70 program is evidence of an awarded contract by the Missouri Highways and Transportation Commission.

Mr. Kopinski presented the Improve I-70 contracts listed below for the Commission's consideration and award, contingent upon the transfer of funds from the Office of Administration I-70 Project Fund to the State Road Fund I-70 Project Fund.

- The amount of \$2,968,141 for a professional services contract with CDM Smith with contract number 2023-07-81043. This contract area includes Job Numbers JST0016, Lafayette/Saline I-70, JST0017 Cooper I-70 and JST0018 Boone/Callaway/Montgomery I-70. Services for this contract include environmental re-evaluation which will be used to prepare for projects on I-70 in these areas.
- Add \$1,626,690 to the existing professional services contract 2023-03-76635 with Bartlett and West. This supplement to the contract adds Job Number JST0017 Cooper I-70 to the contract and increases the scope of work for Job Number JST0018 Boone/Callaway/Montgomery I-70. Services for this contract include survey work for preliminary design to prepare for projects on I-70 in these areas.

Mr. Kopinski also recommended the Commission authorize (1) the Director, Deputy Director/Chief Engineer, or Chief Financial Officer or their designee to request the transfer of funds from the Office of Administration I-70 Project Fund to the State Road Fund I-70 Project Fund, and (2) the Director, Deputy Director/Chief Engineer, or Chief Financial Officer or their designee to execute the contracts and documents that are part of the Improve I-70 Program, subject to approval as to form by the Chief Counsel's Office.

Via approval of the consent agenda, the Commission took the following action.

1. Awarded the contracts listed above contingent upon the transfer of funds from the Office of Administration I-70 Project Fund to the State Road Fund I-70 Project Fund.
2. Authorized the Director, Deputy Director/Chief Engineer, or Chief Financial Officer or their designee to request the transfer of funds from the Office of Administration I-70 Project Fund to the State Road Fund I-70 Project Fund.

3. Authorized the Director, Deputy Director/Chief Engineer, or Chief Financial Officer or their designee to execute the contracts and documents that are part of the Improve I-70 Program, subject to approval as to form by the Chief Counsel’s Office.

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APPROVAL OF PLANS FOR CONDEMNATION

On behalf of the Director, Kenny Voss, Assistant State Design Engineer, recommended the Commission approve the following detailed project plans, approved by the Chief Engineer, for filing as necessary for the condemnation of right of way.

<u>County</u>	<u>Route</u>	<u>Job Number</u>
St. Louis	115	J6S3416
St. Louis	115	J6S3417
St. Louis	366	J6S3582
Jefferson	61/67	J6S3640
Carter	A	J9S3609

In accordance with Section 227.050 RSMo, the Commission, via approval of the consent agenda, approved the detailed project plans for the above noted projects and directed them to be filed as necessary for the condemnation of right of way.

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REPORTS

The Commission received the following written reports.

AUDITS AND INVESTIGATIONS ANNUAL REPORT

Misty Volkart, Audits and Investigations Director provided to the Commission the Audits and Investigations Annual Report for calendar year 2023.

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FINANCIAL ACCOUNTABILITY REPORT – QUARTERLY REPORT

Todd Grosvenor, Financial Services Director, provided the Commission the written Quarterly Financial Accountability Report for the period ending December 31, 2023.

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MODOT BRIEFING REPORT

Patrick McKenna, Director, provided to the Commission the written monthly Issue Briefs that are sent from the department to the Governor since the previous MoDOT Briefing Report. There were no briefing reports for the past month. However, there were seven issue briefs that department staff prepared for the executive team and were provided with this report.

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MISSOURI DEPARTMENT OF TRANSPORTATION FINANCIAL REPORT – FISCAL YEAR 2024

Todd Grosvenor, Financial Services Director, submitted a written financial report for fiscal year to date December 31, 2023, with budget and prior year comparisons.

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CONSULTANT SERVICES CONTRACT REPORT

Kenny Voss, Assistant State Design Engineer, submitted a written report of consultant contracts executed in the month of December 2023, for both engineering and non-engineering related projects. The

department utilizes consultants to efficiently manage workload and provide specialized expertise to supplement and support department staff. Expenditures for consultant services are funded from the Commission approved Statewide Transportation Improvement Program and MoDOT Operating Budget. There were 601 active contracts held by individual engineering consultant firms prior to January 1, 2024. Eight engineering consultant services contracts were executed in December 2023, for a total of \$1,470,820. There were zero non-engineering consultant contracts executed in December 2023.

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By unanimous consensus of all members present, the meeting of the Commission adjourned.

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The Mission of the Missouri Highways and Transportation Commission is to:

- Represent the citizens of Missouri pursuant to the Constitution by providing independent and nonpartisan governance of the Missouri Department of Transportation; and
- Establish policies, exercise oversight, and ensure accountability in developing and maintaining a world class transportation system in Missouri which fosters safety and economic development.

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